

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SUZANNE DEGNEN, D.M.D., P.C.)
d/b/a SUNSET TOWER FAMILY)
DENTISTRY,)
)
 Plaintiff,)
) Case No. 15-1103
 v.)
)
 ZIMMER DENTAL, INC. d/b/a)
 ZIMMER DENTAL, AMY BETH GERZOG)
 and JOHN DOES 1-10,)
)
 Defendants.)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441, 1446, and 1453, defendant Zimmer Dental, Inc. d/b/a Zimmer Dental (“Zimmer Dental”) removes this action from the Circuit Court of St. Louis County, Missouri to the United States District Court for the Eastern District of Missouri, Eastern District. Removal is proper because this Court has original jurisdiction over claims arising under the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (the “TCPA”). In further support of this Notice of Removal, Defendant states as follows:

I. THE STATE COURT ACTION

1. On or about February 17, 2015, plaintiff Suzanne Degnen, D.M.D., P.C. d/b/a Sunset Tower Family Dentistry (“Plaintiff”) filed a putative class action petition in the Circuit Court of St. Louis County, Missouri, styled as *Suzanne Degnen, D.M.D., P.C. d/b/a Sunset Tower Family Dentistry v. Zimmer Dental, Inc. d/b/a Zimmer Dental, et al.*, Case No. 15SL-

CC00587. Plaintiff alleged that Defendants¹ violated the TCPA by distributing unsolicited advertisements via a facsimile machine.

2. Service of the Petition on Zimmer Dental was effected by personal service in its home state of Indiana on June 17, 2015. This Notice of Removal is being filed within thirty (30) days of service of the Petition as required by 28 U.S.C. §1446(b).

II. GROUNDS FOR REMOVAL

3. This Court has original jurisdiction over this action because it arises under a law of the United States, namely the TCPA. *Mims v. Arrow Fin. Servs., LLC*, 132 S.Ct. 740, 753 (2012).

4. This case is properly removed to the United States District Court for the Eastern District of Missouri, Eastern Division, pursuant to 28 U.S.C. §§ 1441(a) and (b), because original jurisdiction lies in federal court and the procedural requirements for removal are satisfied.

III. THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED

5. As stated above, this Notice of Removal is timely filed pursuant to 28 U.S.C. §1446(b) within 30 days of service.

6. Pursuant to 28 U.S.C. §1446(a) and Local Rule 81-2.03, Zimmer Dental has filed herewith a true and accurate copy of all process, pleadings, and orders filed in the state court, including the Petition. *See Exhibit A.*

7. Pursuant to Local Rules 81-2.03 and 81-2.02, Zimmer Dental has filed herewith the appropriate filing fee, the Civil Cover Sheet, an Original Filing Form, and a Disclosure of

¹ Amy Beth Gerzog is also a named defendant. Plaintiff alleges she is an employee of Zimmer Dental. As of the time of filing of this Notice of Removal, Ms. Gerzog had not been served with the Petition, and therefore, her consent to removal is not required under 28 U.S.C. §1446(b)(2)(A).

Corporate Interests Certificate.

8. This Notice of Removal is being signed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

9. Venue is proper in this District under 28 U.S.C. §1441(a) because this District and Division embrace the place in which the removed action has been pending.

10. Pursuant to 28 U.S.C. §1446(d), a copy of this Notice of Removal will be provided promptly to Plaintiff's counsel and filed with the Clerk of the Circuit Court of St. Louis County, Missouri, under Case No. 15SL-CC00587.

11. No previous application has been made for the relief requested herein, and no further proceedings have been had in the state court action.

12. If any question arises regarding the propriety of the removal of this action, Zimmer Dental respectfully requests the opportunity to present a brief and/or oral argument in support of their position that this case is removable.

WHEREFORE, Defendant Zimmer Dental, Inc. d/b/a Zimmer Dental hereby removes the above-referenced action now pending in the Missouri Circuit Court for the Twenty-First Judicial Circuit, St. Louis County to the United States District Court for the Eastern District of Missouri, Eastern District.

/s/ Jonathan H. Garside

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Zimmer Dental, Inc. d/b/a Zimmer Dental and
Amy Beth Gerzog

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was served by e-filing through the Missouri Electronic Filing System this 16th day of July, 2015, to the following counsel of record:

Mr. Ronald J. Eisenberg
Mr. Robert Schultz
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Chesterfield, MO 63005-1221

/s/ Jonathan H. Garside
